

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:13-CR-85-BR

UNITED STATES OF AMERICA

v.

ANGLINA BOYNTON

ORDER

This matter is before the court on defendant's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). (DE # 60.) In support, defendant relies on the decision in Hughes v. United States, 138 S. Ct. 1765 (2018), and unspecified retroactive sentencing guidelines effective 6 June 2018. Neither ground warrants relief.

First, in Hughes, the Court held that a defendant who has entered into a Rule 11(c)(1)(C) plea agreement is eligible for a sentence reduction under 18 U.S.C. § 3582(c)(2) based on a retroactive amendment to the sentencing guidelines. 138 S. Ct. at 1776-77. Because defendant's plea agreement is not a Rule 11(c)(1)(C) plea agreement, see United States v. Hampton, Nos. 17-4758, 17-4763, 18-4077, 2018 WL 4360904, at *2 (4th Cir. Sept. 13, 2018) (recognizing that a plea agreement containing an agreement regarding a particular provision of the sentencing guidelines, "but [stating] that such a promise was not binding on the district court," is a plea agreement under Rule 11(c)(1)(B)), (see also Plea Agreement, DE # 21, at 8 (stating the parties' agreement as to sentencing factors is not binding on the court), Hughes has no application to the court's consideration of defendant's motion.

Second, no sentencing guideline amendments became effective on or around 6 June 2018. The court is not aware of any amendments that will become effective 1 November 2018 that

might affect defendant's sentence. The court notes that defendant previously filed a § 3582(c)(2) motion for a sentence reduction based on Amendment 782. (DE # 42.) The court denied that motion because defendant's guideline offense level resulted from the application of the career offender guideline, not the drug quantity guideline, which Amendment 782 changed. (DE # 56.) Without reference to a specific amendment, the court cannot further evaluate whether defendant might be eligible for a sentence reduction.

Accordingly, defendant's motion is DENIED.

This 11 October 2018.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge